IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

W.P.(C).No.13806 of 2007(R)

PETITIONER:-

K.J.ABRAHAM, AGED 50 YEARS, S/O.JOSEPH JOHN,
T.C.NO.7/1069(8), WATER AUTHORITY JUNCTION,
MARUTHENKUZHI,THIRUVANANTHAPURAM-13.

BY ADV. SRI.R.T.PRADEEP

RESPONDENTS:-

1. THE COMMISSIONER OF POLICE,
   OFFICE OF COMMISSIONER OF POLICE, THIRUVANANTHPAURAM CITY.

2. THE CIRCLE INSPECTOR OF POLICE,
   OFFICE OF CIRCLE INSPECTOR OF POLICE,
   CANTONMENT,THIRUVANANTHPAURAM.

3. THE SUB INSPECTOR OF POLICE, POOJAPPURA POLICE STATION,
   POOJAPPURA,THIRUVANANTHPAURAM.

4. SREEDHARAN NAIR,SREERANJANAM,
   TC.7/1072,WATER AUTHORITY JUNCTION,
   MARUTHENKUZHI,THIRUVANANTHPAURAM-13.

5. SREEKUMAR.T.C.,TC.7/1072, WATER AUTHORITY JUNCTION,
   MARUTHENKUZHI,THIRUVANANTHPAURAM-13.

6. G.KAMALA BAI,TC.7/1072, WATER AUTHORITY JUNCTION,
   MARUTHENKUZHI,THIRUVANANTHPAURAM-13.

ADDITIONAL 7TH RESPONDENT IMPLEADED:

ADDL.R7. THE CORPORATION, THIRUVANANTHAPURAM,
REP. BY ITS SECRETARY.

(ADDITIONAL 7TH RESPONDENT IS IMPLEADED AS PER ORDER ON I.A.NO.7801 OF 2007 DATED 14.6.2007)

R1 TO R3 BY GOVERNMENT PLEADER SRI.P.A.SALIM.
R4 TO R6 BY ADV. SRI.GEORGE POONTHOTTAM
R7 BY STANDING COUNSEL SRI.N.NANDAKUMARA MENON.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

APPENDIX

PETITIONER'S EXHIBITS:-

EXT.P1 - TRUE COPY OF JUDGMENT IN W.P.(C).NO.28301/06 DATED 15.12.2006 OF HIGH COURT OF KERALA.

EXT.P2 - TRUE COPY OF CONSTRUCTION PERMIT ISSUED BY CORPORATION OF THIRUVANANTHAPURAM DATED 15.3.07.

EXT.P3 - TRUE COPY OF APPROVED PLAN.

EXT.P4 - TRUE COPY OF MEMO DATED 20.4.07 ISSUED BY TOWN PLANNING OFFICER, CORPORATION OF THIRUVANANTHAPURAM.

EXT.P5 - TRUE COPY OF REPLY OF PETITIONER TO THE TOWN PLANNING OFFICER, CORPORATION OF TRIVANDRUM.

EXT.P6 - TRUE COPY OF COMPLAINT FILED BY PETITIONERS BEFORE THE 3RD RESPONDENT - S.I. OF POLICE, POOJAPPURA DATED 21.4.07.

RESPONDENT'S EXHIBITS:-

EXT.R4(a) - TRUE COPY OF THE COMPLAINT BEFORE THE OMBUDSMAN DATED 24.6.2006.

EXT.R4(b) - TRUE COPY OF THE ORDER IN ORIGINAL PETITION NO.523/2006 DATED 11.10.2006.

EXT.R4(c) - TRUE COPY OF THE ORDER DATED 4.5.2007 ISSUED BY THE CORPORATION.

- true copy -

K.Balakrishnan Nair & Harun-Ul-Rashid, JJ.

W.P.(C).No.13806 of 2007-R

Dated, this the 20th day of August, 2007

JUDGMENT

Balakrishnan Nair,J.

The petitioner has approached this Court seeking the following relief:-

> "(i) To issue a writ of Mandamus or any other appropriate writ, direction or order commanding Respondents 1 to 3 to afford adequate and effective police protection to the lives and property of petitioner and his family from the acts of violence of Respondents 4 to 6".

The dispute between him and respondents 4 to 7 arose in connection with the construction of a compound wall by him, which was demolished allegedly by the Corporation of Thiruvananthapuram when the adjoining pathway was metalled. The Corporation granted permit for the construction of the compound wall as per the direction of this Court in Exhibit P1 judgment. Alleging violation of the conditions of the permit in constructing the compound wall, the Corporation has initiated steps against the petitioner. While so, the petitioner submits, the party

respondents are trying to physically harm the petitioner and his family members. So after filing Exhibit P6 representation before the police, this writ petition is filed seeking the above quoted relief.

2. Learned Government Pleader on instructions submitted that a crime is registered against the petitioner for alleged house trespass and manhandling of a neighbour. There was also a counter case registered on the complaint of the petitioner. The same was later referred as it was found that the allegations were unfounded. In the first case, charge-sheet was filed against the petitioner and his wife.

3. The Standing Counsel for the Corporation submitted that the construction has been undertaken by the petitioner in violation of the permit conditions. So, action as stated above was taken against the petitioner, it is submitted.

4. The party respondents submit that the petitioner was permitted to construct the compound wall on the existing foundation. The permit was granted subject to that condition. But, the petitioner removed the existing foundation and constructed a new foundation and on that he constructed the compound wall. The party respondents denied the allegation that they have attempted to cause any physical harm to the petitioner and his family members.

5. The police have no role in the dispute concerning the legality or otherwise of the construction of the compound wall. But, if

there is any physical threat to the petitioner or his family members, they may alert the Sub Inspector of police, the 3rd respondent herein, and in that event, they will look into the complaint and take appropriate action in accordance with law.

The writ petition is disposed of as above.

K.Balakrishnan Nair
Judge

Harun-Ul-Rashid
Judge

vku/-